

### **REMARKS**

Claims 1 – 8 were previously pending in this application. No claims are amended by the present response. As a result claims 1 – 8 are pending for examination with claims 1 and 5 being independent claims. No new matter has been added.

#### **Rejections Under 35 U.S.C. §102**

The Office Action rejected claims 1 – 8 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,708,778 to Monot (hereinafter Monot). In response, Applicant submits the following remarks with respect to the cited art.

Monot relates to automatic configuration of protocol layer parameters in terminal equipment. (Abstract.) More specifically, Monot controls the operation of terminal equipment by sending a series of probes to carrier equipment and receiving a series of responses from the carrier equipment. (Abstract.) Monot discloses that both data terminal equipment (DTE) and data communication equipment (DCE) are provided, and that “[i]n order for the DTE and the DCE to communicate properly, the DTE must be configured with the appropriate protocol parameters used by DCE.” (Column 1, lines 19 – 30, emphasis added.) Monot thus discloses configuring parameters of a previously provided DTE based on known DCE behavior. In Monot, DTE parameters are configured whereby a DTE sends data packets to a DCE and evaluates the responses. When the DCE receives data packets that are not properly configured, it returns an error message that is coded to specify the nature of the problem. This error coding is documented, and parameter values for the DTE are determined based on the known behavior of a previously provided DCE. (Column 1, lines 51 – 64.)

#### **Independent claim 1 recites in part:**

A method for configuring a local LAPB device... when said received frame indicates that said remote LAPB device comprises a data terminal equipment (DTE), configuring said local LAPB device as a data computing equipment (DCE); when said received frame indicates that said remote LAPB device comprises a data computing equipment, configuring said local LAPB device as a data terminal equipment.

Applicant respectfully submits that Monot does not disclose at least the above quoted claim elements. Monot requires configuration of parameters of a previously provided DTE, and

based on known DCE behavior Monot configures parameters of a protocol layer within a DTE. (Column 1, line 66 to column 2, line 4.) Monot does not disclose “configuring said local device as a data computing equipment (DCE) [and] configuring said local LAPB device as a data terminal equipment” as recited in claim 1. Monot does not teach or suggest configuring anything as a DCE or configuring anything as a DTE. Configuring parameters of a DTE with respect to a DCE as taught by Monot, is different from “configuring said local LAPB device **as** a data computing equipment (DCE)... [and] configuring said local LAPB device **as** a data terminal equipment (DTE)” as recited in claim 1. (See Monot at column 1, lines 65 to column 2, line 9.)

Monot requires that DTE – and only DTE – parameters must be configured. As Monot states, “the DTE must be configured with the appropriate protocol parameters used by DCE.” (Column 1, lines 27 – 29.) Nowhere does Monot teach “configuring said local LAPB device as a data computing equipment (DCE)... [and] configuring said local LAPB device as a data terminal equipment” (emphasis added) as recited in claim 1.

Item 2 of the Office Action states: “it is noted in the art that... the procedure of automatically configuring the DTE from the information received from the DCE also applies to configuring the DCE from the information received from the DTE.” In support of this assertion the Examiner cites Monot at column 1, lines 61 – 64. In response, Applicant respectfully submits that Monot does not support this assertion. This cited passage of Monot states that “known behavior of the DCE” determines the parameter values for various DTE parameter configurations. This relates only to DTE parameter configuration. Monot does not teach, suggest, or hint at “configuring the DCE from the information received from the DTE” as asserted in Item 2 of the Office Action. To the contrary, Monot requires the opposite – that DTE parameters, and only DTE parameters, are configured based on known DCE behavior. Monot is silent about configuring DCE parameters, and about configuring anything as a DCE or DTE. (Column 1, line 28.)

MPEP 2144.03A instructs that “[i]t is never appropriate to rely on ‘common knowledge’ in the art without evidentiary support in the record” and that “assertions of technical facts in the areas of esoteric technology or specific knowledge in the art must always be supported by citation to some reference work recognized as standard in the pertinent art.” See also *In re Zurko*, 258 F.3d 1379, 1385 (Fed. Cir. 2001), which states “[T]he Board cannot simply reach

conclusions based on its own understanding or experience – or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings.” Applicant respectfully submits that, as explained above, Monot does not support this assertion and Applicant further respectfully notes that the Office Action does not cite any other reference in support of this assertion.

MPEP 2131 further instructs that to anticipate a claim, the reference must teach every element of the claim. In order to meet this exacting standard, each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference. (See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987.)) Because Monot does not disclose “a method for configuring a local LAPB device... when said received frame indicates that said remote LAPB device comprises a data terminal equipment (DTE), configuring said local LAPB device as a data computing equipment (DCE); when said received frame indicates that said remote LAPB device comprises a data computing equipment, configuring said local LAPB device as a data terminal equipment” as recited in claim 1, and because the assertions in Item 2 of the Office Action are not supported by citations to a reference, Applicant respectfully submits claim 1 is allowable and requests withdrawal of this rejection as it pertains to independent claim 1 and dependent claims 2 – 4 that depend there from.

Independent claim 5 recites in part:

a processing unit... checking whether said at least one part of said data signal is indicative of one of a data computing equipment (DCE) and a data terminal equipment (DTE)... [and] wherein said configuration signal will configure said local LAPB device as a data computing equipment (DCE) in the case where the at least one part of the data signal is indicative of a data terminal equipment and further wherein said configuration signal will configure said local LAPB device as a data terminal equipment in the case where the at least one part of the data signal is indicative of a data computing equipment.

Applicant respectfully submits that Monot does not disclose at least the above quoted claim elements. As stated above, Monot configures parameters of a protocol layer within a DTE. Monot does not “configure said local LAPB device as a data computing equipment (DCE)... [and] configure said local LAPB device as a data terminal equipment” as recited in claim 5.

Because Monot does not disclose the above-recited elements of claim 5, Applicant respectfully submits claim 5 is allowable and requests withdrawal of this rejection as it pertains to independent claim 5 and dependent claims 6 – 8 that depend there from.

### **CONCLUSION**

In view of the foregoing amendments and remarks, reconsideration is respectfully requested. This application should now be in condition for allowance; a notice to this effect is respectfully requested. If the Examiner believes, after this response, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed payment, please charge any deficiency to Deposit Account No. 50/2762, Ref. No. D2028-703419.

Respectfully submitted,  
*Gordon Rouleau, Applicant*

By:           /James C. De Vellis/            
James C. De Vellis, Reg. No. 52,814  
Edward J. Russavage, Reg. No. 43,069  
LOWRIE, LANDO & ANASTASI, LLP  
One Main Street  
Cambridge, Massachusetts 02142  
United States of America  
Telephone: 617-395-7000  
Facsimile: 617-395-7070

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